

FILED
FEB 24 2020

2020 FEB 24 PM 12:04

CLERK UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY
SW

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LANI E. CLARK, §
PLAINTIFF, §
§
V. § CAUSE NO. 1:19-CV-198-LY
§
LOIS KOLKHORST, §
DEFENDANT. §

**ORDER ADOPTING REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

Before the court in the above-styled and numbered cause are Defendant Lois Kolkhorst's Motion to Dismiss filed May 20, 2019 (Dkt. No. 16), Plaintiff Lani E. Clark's Response filed June 10, 2019 (Dkt. No. 19), Kolkhorst's Reply filed June 17, 2019 (Dkt. No. 20), and Clark's Sur-Reply filed January 7, 2020 (Dkt. No. 34). The case was referred to a United States Magistrate Judge for report and recommendation. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72; Loc. R. W. D. Tex. Appx. C, R. 1(d). The magistrate judge signed a report and recommendation on February 5, 2020 (Dkt. No. 36), recommending that this court deny Kolkhorst's motion to dismiss.

A party may serve and file specific written objections to the proposed findings and recommendations of a magistrate judge within 14 days after being served with a copy of the report and recommendation and thereby secure *de novo* review by the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). The record shows that all parties had notice of the report and recommendations by February 5, 2020 and that objections were due on or

before February 19, 2020. Kolkhorst filed objections to the report and recommendation on February 19, 2020 (Dkt. No. 37).

In light of the objections, the court has undertaken a *de novo* review of the motions, responses, replies, objections, applicable law, and entire record in the cause. The court is of the opinion that the objections do not raise any issues that were not adequately addressed in the report and recommendation. Therefore, finding no error, the court will accept and adopt the report and recommendation as filed for substantially the reasons stated therein. Accordingly,

IT IS ORDERED Kolkhorst's objections to the report and recommendation of the United States Magistrate Judge are **OVERRULED**.

IT IS FURTHER ORDERED that the report and recommendation of the United States Magistrate Judge filed February 5, 2020 (Dkt. No. 36) is **ACCEPTED AND ADOPTED** by the court.

IT IS FURTHER ORDERED that Kolkhorst's Motion to Dismiss filed May 20, 2019 (Dkt. No. 16) is **DENIED**.

SIGNED this 24th day of February, 2020.


LEE YEAKEL
UNITED STATES DISTRICT JUDGE